
DATE: NOVEMBER 16,
2023

STAFF REPORT

AGENDA ITEM NO. 6.1

TO: FOSTER CITY PLANNING COMMISSION

PREPARED BY: LESLIE CARMICHAEL, CONSULTING PLANNER
SOFIA MANGALAM, CDD DIRECTOR

CASE NO.: MULTIFAMILY AND RESIDENTIAL MIXED USE OBJECTIVE DESIGN AND DEVELOPMENT STANDARDS AND AMENDMENTS TO MUNICIPAL CODE TITLE 17, VARIOUS CHAPTERS TO SUPPORT MULTIFAMILY AND RESIDENTIAL MIXED USE OBJECTIVE DESIGN AND DEVELOPMENT STANDARDS (RZ2021-0001)

PROJECT LOCATION: CITYWIDE

REQUESTED ACTION/PURPOSE

Staff recommends that the Planning Commission take the following actions:

- 1) Adopt a Resolution recommending City Council adopt an ordinance amending Title 17, "Zoning" adding a new Chapter 17.96 Multifamily and Residential Mixed Use Objective Design and Development Standards and finding that the proposed amendments to Title 17 are exempt under California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3).
- 2) Adopt a Resolution recommending City Council adopt an ordinance amending Title 17, "Zoning" making revisions to various chapters including to 17.04 Definitions; 17.12 R-1 Single Family Residence District; 17.14 R-2 Two Family Residence District; 17.16 R-T Townhouse Residence District; 17.18 R-3 Medium Density Multiple-Family Residence District; 17.20 R-4 High Density Multiple-Family Residence District; 17.26, C-2 General Business District; 17.28 C-M Commercial Mix District; 17.36 PD Planned Development Combining District; 17.58 Architectural Control And Supervision; And 17.62 Off-Street Parking Regulations and finding that the proposed amendments to Title 17 are exempt under California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3).

NOTICING/PUBLIC OUTREACH

Notice of the November 16, 2023, Planning Commission Public Hearing, was noticed in the following ways:

- Published in the Islander – November 01, 2023
- Displayed on FCTV/Channel 27 – November 2, 2023, through November 16, 2023
- Emailed out to the Planning Listserv – October 26, 2023
- Posted on the Foster City website at www.fostercity.org – October 26, 2023
- Posted on-site and at all of the City's official posting locations – October 30, 2023
- Electronic marquee at Leo Ryan Park – November 2, 2023, through November 16, 2023

BACKGROUND

Recent state laws have limited a local jurisdiction's ability to apply subjective design standards for qualifying housing projects such that local jurisdictions can now only rely on the application of objective design standards to multi-family and residential mixed-use projects. Objective standards are those that do not involve personal or subjective judgment. Those standards can typically be referenced to an external and uniform benchmark or criterion and are knowable by both the development applicant or proponent and the public official.

The impetus for the creation of the objective design and development standards (ODDS) comes from both the City's current General Plan and changes in State law. The Housing Element of the General Plan, as adopted on May 22, 2023, includes numerous programs, including the following:

- *H-D-6-e Multi-Family Objective Design Standards. Amend the Zoning regulations, including but not limited to R-3 and R-4, to include objective design standards and objective approval findings for new and redeveloped multi-family or mixed-use developments to address building design as well as provision of open space and recreational amenities, including amendment of lot size, coverage, setbacks, open space and other requirements to ensure the densities allowed by the General Plan can be achieved in compliance with the Housing Accountability Act.*

The creation of ODDS began prior to adoption of the Housing Element for 2023-2031. On May 3, 2021, the City Council adopted Resolution No. 2021-52, directing staff and the Planning Commission to prepare the Multi-Family Objective Design Standards in a new chapter of Title 17, Zoning, of the Foster City Municipal Code ([see link to the meeting for details](#)).

Implementing the ODDS includes new or amended development requirements for parking, height, setbacks, open space, and materials and colors to multi-family and residential mixed-use projects. Therefore, as part of the implementation of these ODDS, there are also updates to other chapters of the Municipal Code.

ANALYSIS

The legislature has adopted dozens of bills over the past few years that have significantly changed typical planning and approval processes, including Senate Bill (SB) 35 and SB 330:

- SB 35 (2017) streamlines housing development approvals on infill sites that comply with "objective standards," meet minimum affordability requirements, are not environmentally sensitive, and if the developer pays prevailing wage and uses a "skilled and trained workforce" for projects over a certain threshold.
- SB 330 (2019) requires timely processing of qualifying housing development projects that comply with all applicable objective standards and other ordinances and policies and freezes impact and other fees in place when a pre-application is filed and deemed complete.

Until recently, the City of Foster City was not subject to the provisions of SB 35, but that changed in 2023. As per the latest 2023 [SB 35 Statewide Determination Summary](#), based on Housing Element Annual Progress Reports (APRs), Foster City made insufficient progress toward the Lower income RHNA (Very-Low and Low income) and is therefore subject to the streamlined ministerial approval process (SB 35) for proposed developments with at least 50% affordability.

Thus, it is critical for Foster City to adopt objective standards and implement them for streamlined review of the qualifying housing projects.

Public Meetings and Community Engagement

Foster City has conducted a robust community engagement process to ensure that residents' views regarding the design of new multi-family developments are captured in the new regulations, including four (4) Planning Commission study sessions, data walk/survey, a 30-day public comment period on the draft ordinance, [a dedicated website](#), and various tabling events as described below.

- [Planning Commission Study Session #1– July 15, 2021](#)

The Planning Commission held a Study Session on July 15, 2021, to receive an introduction to the ODDS and to provide initial direction to staff. Staff also presented a preview of the Data Walk tool and noted that it would launch Data Walk on August 17, 2021, for community feedback.

At the conclusion of the July 15, 2021, meeting, the Planning Commission directed staff to review standards of cities in similar size and land features, noted developments that contain exemplary design features within the city, and provided key design standards which staff should focus on. These included:

- Rooflines and roof shapes
- Relationship to neighboring properties
- Relationship to waterfront
- Landscaping, including pathfinding and wayfinding
- Lighting
- Massing, size, height
- Colors and materials
- Parking
- Decking and railings

- [Data Walk – August 17, 2021, through September 30, 2021](#)

On August 17, 2021, Data Walk was launched, with materials posted on the website, in which members of the public could participate in the self-guided walk virtually or in person by visiting 10 existing multi-family developments, including Sand Cove Apartments, Foster Square, Alma Point Senior Apartments, Sandpiper Apartments, the Admiralty, 100 Grand Apartments, Waverly Cove Townhomes, Triton Apartments, Plaza Apartments and Cityhomes East Townhomes. Participants were asked to share their reactions to the development with the project team. Between August 17, 2021, and September 30, 2021, project staff received 316 individual responses from 23 participants (see Attachment 1 from October 21, 2021, Study Session). When asked if certain developments were consistent with Foster City's community character, the following topics came up most frequently:

- Materials and color (51 responses)
- Building massing (50 responses)
- Open space (44 responses)
- Pedestrian facilities (35 responses)

- [Planning Commission Study Session #2 – October 21, 2021](#)

At the October 21, 2021, Study Session meeting, staff reviewed all community engagement efforts that followed the July 15, 2021, Study Session, specifically the Data Walk. The Commission discussed how participants provided mixed feedback on whether

higher-density or taller development felt appropriate in Foster City and felt that the lagoon, landscaping, and open spaces were important to the City's character. Other areas of concern included parking, "blocky" architecture, architectural details such as balconies, and providing adequate shade.

- [Planning Commission Study Session #3 - August 17, 2023](#)

At this meeting, staff presented a draft ordinance for ODDS including the four (4) main sections:

- 17.96.010 Intent and purpose.
- 17.96.020 Applicability.
- 17.96.030 Process.
- 17.96.040 Design and Development standards.

At the meeting, the Planning Commission provided comments to the staff on the draft ordinance for further refinements, including:

- provide for flexibility through an exception request process without requiring a unique physical circumstance.
- provide different walkway width standards for different uses.
- provide 50% credit for rooftops and 100% credit for raised courtyards and publicly accessible open space.
- remove trellis from the list of shade structures.
- allow use of high-quality artificial turf.
- add boat access wherever possible.

- [Draft Ordinance Public Review period \(August 24 - September 25, 2023\) and tabling events](#)

After the study session on August 17, 2023, staff solicited feedback from the community and opened the public comment period from August 25 through September 25, 2023, via online feedback form. Emails were sent to various listservs and the staff also conducted three (3) tabling events. At these events, flyers were distributed, informing the public and directing them to the online feedback form. The tabling events were held on the following dates and locations:

- September 6: Off the Grid from 5:00 pm to 6:00 pm
- September 13: Starbucks, Foster's Square from 9:00 am to 10:00 am
- September 20: Foster's Square from 11:30 am to 12:00 pm

- [Planning Commission Study Session #4 – October 19, 2023](#)

At the last Study Session, staff incorporated revisions as per direction received from the Planning Commission in the previous study session and presented additional edits to various chapters in Title 17 which need to be updated for the implementation of the ODDS.

At this meeting, the Planning Commission directed staff not to put any limit on artificial turf in the new Chapter 17.96 and have bicycle parking requirement expressed as 1 parking space per 10 dwelling units instead of 0.1 spaces per dwelling unit in the amended Chapter 17.62.

Staff would note that there are differences of opinion regarding potential environmental and health impacts related to artificial turf. Governor Newsom vetoed [AB 1423](#) that would have banned some chemicals in artificial turf, including perfluoroalkyl and polyfluoroalkyl substances (also known as PFAs). However, [SB 676](#) was signed into law this year and provides that a city cannot adopt an ordinance or regulation that prohibits the installation of drought-tolerant landscaping. SB 676 clarifies that "Drought-tolerant landscaping

excludes the installation of synthetic grass or artificial turf. Staff believes that the ODDS include standards to address some of the issues relating to chemicals in artificial turf by specifying in the proposed standards for synthetic turf that the turf “be composed of polypropylene, polyethylene, or a blend of polypropylene and polyethylene fibers stitched onto a polypropylene or polyurethane meshed or hole-punched backing”, which are not PFAs. The proposed standards for the infill medium is clean sand or other manufacturer recommended mixture.

Proposed New Chapter 17.96 Multifamily and Residential Mixed Use Objective Design and Development Standards (see Attachment 1, Exhibit A)

Staff made formatting edits to correct numbering and “flatten” the number of subsections where appropriate. The Draft ordinance includes five (5) main sections, including:

- 17.96.010 Intent and purpose.
- 17.96.020 Applicability.
- 17.96.030 Process.
- 17.96.040 Site design and development standards.
- 17.96.050 Building design and development standards

17.96.040 Site design and development standards includes standards for access, parking, loading, parking, loading, open space, site lighting, landscaping, security, utilities, site furniture, and signage.

17.96.050 Building design and development standards included standards for upper story setbacks, neighborhood transition plane, roof articulation, wall articulation, fenestration, materials and colors, building lighting, building signage, and ground floor design.

Following review by the City Attorney, several other minor edits have been included to:

- Reduce subjectivity regarding curb cuts allowed, location of parking facility entries, description of vertical articulation, and specific prohibited colors.
- Add an objective boat storage requirement of 1 storage space per 20 dwelling units where boat storage is required.
- Cross reference relevant sections of the Municipal Code.

Changes made since the October 19, 2023 Study Session are shown in “redline” in Attachment 5.

Amendments to other Chapters of the Municipal Code (see Attachment 3, Exhibit A)

Staff has included proposed amendments to the following chapters of the Title 17 Zoning of the Municipal Code:

- 17.04 Definitions
 - New definitions are proposed to be added and a few amended in Chapter 17.04. This includes Articulated Roof Form; Articulation, horizontal; Articulation, Vertical; Bicycle parking, long-term (Class I); Bicycle parking, short-term (Class II); Durable exterior materials; Façade; height of building; Mechanical parking system; Mixed use; Multifamily; Multistory parking facilities’ Open green area; Open green area, common; Open green area, private; Pedestrian-scaled lighting; Stepback; Turf, synthetic.
- 17.12 (R-1 Single-Family Residence District)

- Replace “Minimum Lot Area Per Dwelling Unit” with “Maximum Density Permitted”
- 17.14 (R-2 Two-Family Residence District)
 - Replace “Minimum Lot Area Per Dwelling Unit” with “Maximum Density Permitted”
 - Reference to the new ODDS Chapter 17.96
- 17.16 (R-T Townhouse Residence District)
 - Remove guest parking requirements that is in addition to requirements in 17.62.
 - Added table for building site area, density, yards, height, coverage, and open green area.
 - Reference new ODDS Chapter 17.96
- 17.18 (R-3 Medium Density Multiple-Family Residence District)
 - Amend table for Minimum building site, density, yards, height, coverage, and open green area to ensure 35 units/acre density can be achieved
 - Reference new ODDS Chapter 17.96
- 17.20 (R-4 High Density Multiple-Family Residence District)
 - Amend table for minimum building site, density, yards, height, coverage, and open green area to ensure 35 units/acre density can be achieved
 - Reference new ODDS Chapter 17.96
- 17.26 (C-2 General Business District)
 - Amend table including density, and coverage to ensure 60 units/acre density can be achieved
 - Reference to the new ODDS Chapter 17.96
- 17.28 (C-M Commercial Mix District)
 - Added table for building site area, density, yards, height, coverage, and open green area to ensure 60 units/acre density can be achieved.
 - Reference new ODDS Chapter 17.96
- 17.36 (PD Planned Development Combining District)
 - Revised findings
 - Moved requirements for architectural drawings
 - Reference new ODDS Chapter 17.96
 - Provision for extensions
- 17.58 (Architectural Control and Supervision)
 - Revised findings
 - Reference new ODDS Chapter 17.96
- 17.62 (Off-Street Parking Regulations)
 - Definitions for Passenger drop off zone; Tandem parking spaces/
 - Design standards for mechanical parking systems
 - Bicycle parking requirements
 - Design standards for loading/unloading
 - Passenger drop-off zone requirements.

The changes to the existing municipal code sections are shown in “redline” in Attachment 6.

SUMMARY

Staff recommends that Planning Commission approve the following:

1. Adopt Resolution recommending City Council adopt an ordinance amending title 17, “Zoning” adding a new Chapter 17.96 Multifamily and Residential Mixed Use Objective Design and Development Standards and finding that the proposed amendments to title 17 are exempt under California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3).

2. Adopt Resolution recommending City Council adopt an ordinance amending Title 17, "Zoning" making revisions to various chapters including 17.04 Definitions; 17.12 R-1 Single Family Residence District; 17.14 R-2 Two Family Residence District; 17.16 R-T Townhouse Residence District; 17.18 R-3 Medium Density Multiple-Family Residence District; 17.20 R-4 High Density Multiple-Family Residence District; 17.26, C-2 General Business District; 17.28 C-M Commercial Mix District; 17.36 PD Planned Development Combining District; 17.58 Architectural Control And Supervision; And 17.62 Off-Street Parking Regulations and finding that the proposed amendments to Title 17 are exempt under California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3).

ENVIRONMENTAL

The proposed new Chapter 17.96 and other code amendments in Title 17 are not subject to review under the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21000, et seq. and the CEQA Guidelines (14 Cal. Code Regs. §§ 15000 et. seq.), including without limitation, Public Resources Code section 21065 and California Code of Regulations 15378 as the adoption of objective design standards and amendments to zoning regulations are not a "project" that may cause a direct, or reasonably foreseeable indirect, physical change in the environment and if a "project," the proposed new Chapter 17.96 and other code amendments in Title 17 would be exempt under the "common sense" exception (14 Cal. Code Regs. § 15061(b)(3)) because it can be seen with certainty that there is no possibility that this action may have a significant effect on the environment.

NEXT STEPS

The proposed new Chapter 17.96 and text amendments to other chapters of Title 17 will be forwarded to the City Council for consideration at a noticed Public Hearing.

ATTACHMENTS

- Attachment 1 – Planning Commission Resolution for Chapter 17.96
 - Attachment 1, Exhibit A - Chapter 17.96 Draft Objective Design and Development Standards
- Attachment 2 – Draft City Council Ordinance for Chapter 17.96
- Attachment 3 – Planning Commission Resolution for Various Chapters
 - Attachment 3, Exhibits A thru L - ODDS Related Chapter Amendments
- Attachment 4 – Draft City Council Ordinance for Various Chapters
- Attachment 5 – Draft new Chapter 17.96 (redline)
- Attachment 6 – Draft Revisions to other chapters (redline)